

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DAVID SALGADO,

Plaintiff,

10 Civ. 4604 (PKC)(DF)

-against-

ORDER ADOPTING REPORT  
AND RECOMMENDATION

C.O. YANG, et. al.,

Defendants.

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P. KEVIN CASTEL, District Judge:

Magistrate Judge Debra Freeman, to whom this case was referred for general pretrial supervision, sent plaintiff a letter dated October 4, 2010 informing plaintiff of his obligation to serve defendants with process and giving plaintiff until January 14, 2011 to show cause why his Amended Complaint ought not be dismissed for failure to comply with Rule 4(m), Fed. R. Civ. P. Plaintiff, proceeding *pro se*, filed an Amended Complaint in this action on September 16, 2010. On September 24, 2010, an Amended Summons was issued and forwarded to plaintiff by the Court's *Pro Se* Office together with the necessary forms to permit service of the Amended Complaint. Plaintiff failed to serve defendants by the January 14, 2011 deadline. Nor has plaintiff shown good cause for such failure. As a result, Magistrate Judge Freeman issued a Report and Recommendation (the "R & R"), dated March 3, 2011, recommending that the action be dismissed without prejudice.

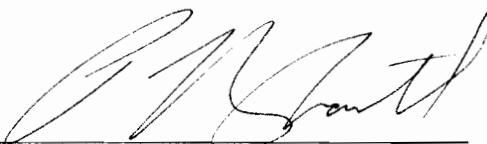
The R & R advised the plaintiff that he had fourteen days from service of the R & R to file any objections, and warned that failure to timely file such objections would result in waiver of any right to object. As of the date of this Order, no objections have been filed and no request for an extension of time to object has been made. The R & R expressly called plaintiff's attention to Rule 72(b), Fed. R. Civ. P., and 28 U.S.C. § 636(b)(1). Plaintiff received clear notice of the

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consequences of the failure to object and has waived the right to object to the R & R or obtain appellate review. See Frank v. Johnson, 968 F.2d 298, 300 (2d Cir. 1992), *cert. denied*, 506 U.S. 1038 (1992); see also Caidor v. Onondaga County, 517 F.3d 601, 604 (2d Cir. 2008).

The R & R is adopted and the action is dismissed without prejudice. The Clerk is directed to enter judgment for the defendants.

SO ORDERED.



P. Kevin Castel  
United States District Judge

Dated: New York, New York  
March 28, 2011